

REMARKS

Responsive to the restriction requirement set forth in the Official Action of November 4, 2003, applicants hereby provisionally elect Group I, claims 1 and 3-9, with traverse.

As to the requirement that applicants elect any one of SEQ ID NOS: 1-11 or a combination of SEQ ID NOS: 1-11 set forth on page 2 of the Official Action, applicants hereby provisionally elect peptides B, C, D, E, F, G, H, J and K found in claim 1.

The grounds for traverse are as follows:

The same claims as pending in the present national stage application were subject to examination during the international phase of the PCT application. The international examiner found no lack of unity, applying the same legal standard to the identical facts. Thus, the U.S. Patent Office cannot now contend that examination of the same claims in the present application would pose an undue searching burden.

Moreover, the Official Action does not explain why, applying the identical legal standard to the present application, the opposite result is now being reached in the present U.S. national phase application, relative to the international application.

Applicants also believe that the Official Action fails to comply with the requirements of PCT Rules 13.1 and 13.2, seeking to justify the lack of unity determination. As the

Examiner is aware, the definition of "special technical feature" in PCT Rule 13.2 is art-based. Therefore, a proper lack of unity determination would require citation of a reference showing this "special technical feature". However, no such citation has been made. As a result, the lack of unity determination is believed to be improper.

Applicants believe that it is apparent that Groups I and II share an extensive and detailed common core, which renders a lack of unity determination therebetween entirely inappropriate. Indeed, the monoclonal or polyclonal antibodies of claim 2 are directed to the peptides of claim 1.

Plainly, any search for art relevant to Group I would reveal all prior art relevant to Group II, and vice versa.

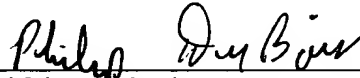
As to the election of species requirement, the elected peptides share a common property, as required by PCT Rule 13.2, in that they represent MAGE-3 epitopes. These epitopes are able to bind to different HLA-DR alleles. As described in the article by Blood (Blood, 2003), the nine peptides have been shown to induce proliferation of CD4+T cells and were recognized by most of the donors in association with three to four different HLA-DR alleles, consistent with a high degree of promiscuity. The peptides proved to be able to bind and stimulate CD4+T cells in the context of multiple HLA-DR alleles.

In light of the above discussion, therefore, it is believed that applicants are entitled to an action on the merits of all of claims 1-9, in their full scope, in the present application. Such action is accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Philip Dubois, Reg. No. 50,696
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

PD/lk